

The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COLUMBIA MACHINE, INC., a Washington
Corporation,

Plaintiff,

v.

BESSER COMPANY, a Michigan Corporation,
and

BESSER COMPANY USA, a Michigan
Corporation,

Defendants.

Civil Action No. 3:11-cv-05268-RBL

NOTICE OF SETTLEMENT

Defendants Besser Company and Besser Company USA hereby formally provide notice that this case has settled, as set forth in the Court's Minute Order of April 16, 2012 (ECF No. 59) and as represented by the parties at the *Markman* hearing of April 12, 2012 (in the related case of *Columbia Machine, Inc. v. Besser Co.*, Case No. 3:10-cv-05667-RBL). The Besser Defendants are currently drafting a form of Judgment that, once reviewed and approved by Columbia, will be filed with the Court, along with any other dismissal papers, allowing this matter to be closed.

1 1. On March 26, 2012, Defendant Besser Company and Defendant Besser Company
 2 USA served their Joint Offer of Judgment on Plaintiff Columbia Machine, Inc. “in an effort to
 3 resolve this litigation (and avoid mounting legal fees) consistent with the purposes specified in
 4 Fed. R. Civ. P. 68.” (Offer of Judgment at ¶ 3). A true and correct copy of the Offer of Judgment
 5 served on March 26, 2012 is attached to this Notice as **Exhibit A**. Among other things, the
 6 Defendants offered the total sum of \$50,000, on behalf of the Besser Defendants jointly and
 7 severally, to resolve this case.
 8

9 2. This \$50,000 sum represented “the total monetary recovery in this case,
 10 including but not limited to all actual damages, however measured, lost profits, reasonable
 11 royalty, enhanced damages, punitive damages, consequential damages, statutory damages, costs,
 12 expenses, attorneys’ fees, punitive damages, disgorgement of profits, pre-judgment interest,
 13 equitable trust, and any and all other monetary damages or sums of any kind allowable in law or
 14 equity, and under any claim, theory, statute, rule, case law, or other law.” (Offer of Judgment at ¶
 15 1) (emphasis in original).
 16

17 3. On or about April 12, 2012, Columbia accepted the March 26, 2012 Offer of
 18 Judgment by handing that acceptance to undersigned counsel, Paul Beattie, at the end of the
 19 *Markman* hearing on the related case of *Columbia Machine, Inc. v. Besser Co.*, Case No. 3:10-
 20 cv-05667-RBL. A true and correct copy of that acceptance is attached as **Exhibit B** to this
 21 Notice.
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1 4. The parties thus agree that the Offer of Judgment has been accepted, and they
2 have manifested their assent to be bound by the terms of that Offer. A Judgment in this matter
3 will be filed in due course, along with any other dismissal papers, allowing this case to be closed.
4

5 Dated this 19th day of April, 2012
6

7 /s/ Paul H. Beattie

8 Paul H. Beattie, WSBA # 30277

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21

22 ***Attorneys for Defendants BESSER COMPANY***

23 ***and BESSER COMPANY USA***
24
25

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of April, 2012, I served the foregoing **NOTICE OF SETTLEMENT**, with **Exhibits A and B**, on the following person, at the noted address, by the indicated method:

Alexander C. Johnson
**MARGER JOHNSON &
MCCOLLOM**
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alex.johnson@techlaw.com
Attorney for Plaintiff

by:

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U.S. Postal Service, ordinary first class mail
U.S. Postal Service, certified or registered mail,
return receipt requested
hand delivery to:
facsimile
electronic service through the CM/ECF court system
other (specify) E-mailed to: alex.johnson@techlaw.com

/s/ Paul H. Beattie
Paul H. Beattie